

The exemption for coal exploration, mining, off highway, processing maintenance and reclamation equipment, contained in regulation 86 Ill. Adm. Code 130.350 was repealed, effective July 1, 2003. Some items may qualify for the manufacturing machinery and equipment exemption. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

December 15, 2004

Dear Xxxxx:

This letter is in response to your letter dated July 20, 2004, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

This letter is a request to have our material (mine sealant) to be tax exempt at all locations (coal mines) in the state of Illinois. We feel that our mine sealant is used in the same application as the people who were granted a tax exempt letter. Please let me know what I need to do to have out sealant exempt.

We are also at a disadvantage to our competitors who make the product out of the State of Illinois and ship it in. We have to charge 6.25% more on our product.

Thank you for asking me to request this in writing. Please let me know if I can be of further service to you.

DEPARTMENT'S RESPONSE:

The exemption for coal exploration, mining, off highway, processing maintenance and reclamation equipment, contained in our regulation at 86 Ill. Adm. Code 130.350 was repealed, effective July 1, 2003. Some items may qualify for the manufacturing machinery and equipment exemption under the holding in *Nokomis Quarry Co. v. Department of Revenue*, 295 Ill. App. 3d 264,

692 N.E. 2d 855 (1998). See 86 Ill. Adm. Code 130.330. For information regarding the tax liabilities incurred and applicable exemptions, if any, for mine sealants, please refer to the Department's regulations regarding manufacturing machinery and equipment, which may be found at 86 Ill. Adm. Code 130.330.

The law exempts only the purchase and use of "machinery" and "equipment" used in manufacturing or assembling. Accordingly, no other type or kind of tangible personal property will qualify for the exemption, even though it may be used primarily in the manufacturing or assembling of tangible personal property for sale or lease. See 86 Ill. Adm. Code 130.330(c)(1).

The information you have provided with your request is not clear as to how the sealant is used in coal mining. The sealant may be considered a supply similar to a lubricant, adhesive, or solvent that does not qualify for the exemption under 130.330(c)(3).

I hope this information is helpful. If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

EEB:msk